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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
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Draft report

Rapporteur: Nadia Alexandra **Kalb** (Austria)

II. Maintenance of international peace and security

A. Implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions

1. The Special Committee considered the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions during the general exchange of views held at its 281st and 282nd meetings, on 16 and 17 February 2016, and at the 1st meeting of the Working Group of the Whole.

2. During the general exchange of views on the issue, many delegations reiterated their concern regarding sanctions imposed by the Security Council. It was re-emphasized that sanctions should not be used as blunt instruments designed to punish the population of the target country and that they were not applicable as a response to all violations of international obligations. Several delegations also made reference to the document entitled "Introduction and implementation of sanctions imposed by the United Nations" (General Assembly resolution 64/115, annex).

3. Some delegations reaffirmed their concern about the imposition of unilateral sanctions in violation of international law. It was stated that, in practice, such sanctions were often imposed as a result of the extraterritorial application of national regulations and that they infringed upon the rights of affected States, in addition to the individual rights of affected persons.

4. Several delegations re-emphasized that sanctions should be introduced and applied in conformity with the provisions of the Charter and international law. It was reiterated that they should be imposed only as a last resort when there existed a threat to international peace and security, a breach of the peace or an act of aggression. It was pointed out that double standards, selectivity and arbitrary

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methods had no place in the practice of the Security Council. Several delegations asserted that the objectives of sanctions regimes for a target country should be clearly defined, based on tenable legal grounds and imposed for a clear period. Some delegations also stressed that the Council should not exceed its competence under the Charter when implementing sanctions and that there should be a mechanism for the Council to promptly lift all sanctions when there were no longer grounds for having them.

5. Some delegations expressed support for examining the question of the provision of possible payment of compensation to targeted and/or third States for damage caused by sanctions found to have been unlawfully imposed. Other delegations stated that consideration of the issue was no longer necessary. The suggestion was reiterated that the International Law Commission should give consideration, in the context of its prior work on the responsibility of international organizations, to the legal consequences of sanctions arbitrarily imposed against Member States by the Security Council.

6. Several delegations reaffirmed that sanctions, applied in accordance with the Charter and in a targeted fashion, were an important instrument for the maintenance and restoration of international peace and security. It was further reiterated that the shift from comprehensive to targeted sanctions had reduced the possibility of adverse consequences for civilian populations and third parties.

7. Other delegations noted that targeted sanctions might still have unintended effects on civilian populations and on third States.

8. Several delegations noted that in the recent report of the Secretary-General (A/70/119) it was indicated that the United Nations had not been approached by Member States since 2003 with regard to special economic problems arising from the implementation of sanctions. They also noted that neither the General Assembly nor the Economic and Social Council had found it necessary in the period under review to take any action relating to that matter. While expressing the view that the subject should not be removed from the agenda entirely, some delegations recalled that the General Assembly, in paragraph 3 (b) of its resolution 70/117, had requested the Special Committee to consider the frequency of the consideration of the item.

9. At the 1st meeting of the Working Group of the Whole, a proposal — based on an oral proposal made by the European Union at the 2015 session of the Special Committee (A/70/33, para. 26) — was made, on behalf of the States Members of the United Nations that are members of the European Union, by which the Special Committee would consider the question every three years, except if one or more third States, finding themselves confronted with special economic problems arising from the application of sanctions, appealed for assistance in accordance with Article 50 of the Charter, whereupon the Special Committee would consider the question at its next session (A/AC.182/L.142).

10. In the view of several delegations, the issue of assistance to third States affected by the application of sanctions, and any proposals submitted thereon, should continue to be considered by the Special Committee annually. It was pointed out that the fact that no State had required assistance should not lead to a general assumption that there were no difficulties. Some delegations suggested that the scope of the agenda item be expanded, for example to include discussions on the

impact of sanctions on targeted States themselves or on the legal consequences of unilateral sanctions.

Briefings

11. At its 1st meeting, the Working Group of the Whole received a briefing by representatives of the Department of Political Affairs and the Department of Economic and Social Affairs of the Secretariat on developments relating to paragraph 12 of the report of the Secretary-General on the question (A/70/119), as requested by the General Assembly in paragraph 16 of its resolution 70/117.

12. Some delegations suggested that the dearth of requests for assistance by third States affected by the application of sanctions could be due to a lack of information on where States should direct such requests. The representative of the Department of Political Affairs indicated that, in line with Article 50 of the Charter, requests were typically directed to the Security Council or the relevant sanctions committees. The Secretary-General forwarded any requests received to these bodies. So far, one request had been received and remained under consideration by the relevant sanctions committee. Requests could also be raised at meetings between sanctions committees and States in the region, at open briefings by the Chairs of the sanctions committees and during visits by committee Chairs to countries most directly affected by sanctions. States could also convey their concerns in their interactions with the expert groups tasked with assisting committees in monitoring the implementation of sanctions.

13. Several delegations requested the Secretariat to conduct further research on the effects on third States of the application of sanctions, noting that the appropriate bodies of the Secretariat had the relevant authority. The representative of the Department of Economic and Social Affairs indicated that, in the absence of a request from the Security Council or one of its organs to evaluate the effect of the application of sanctions on third States, no country-specific examination could be carried out by the Secretariat. The representative added that the Department's most recent work in that regard consisted of methodological and technical publications, rather than case studies. The representative of the Department reiterated that the Secretariat stood ready to respond to any request made by the Security Council or one of its organs.

14. At its 3rd meeting, upon the request of several delegations, the Working Group of the Whole received a briefing by representatives of the Department of Political Affairs on the implementation of the document entitled "Introduction and implementation of sanctions imposed by the United Nations" annexed to General Assembly resolution 64/115. The representatives provided information on the elements of the document and responded to questions raised in that regard. Several delegations that viewed such briefings as useful and informative spoke in favour of their being held annually. Others expressed the view that the substance of the briefings was focused on the implementation of sanctions more generally and did not correspond to the item under consideration.